

## HOUSE BILL No. 1065

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-10.2-4.

**Synopsis:** PERF beneficiary change after divorce. Provides that a member of the public employees' retirement fund (PERF) who is receiving a benefit and who is a party in an action for dissolution of marriage may elect to change the member's beneficiary or form of benefit. (Current law allows only members of the Indiana state teachers' retirement fund to make such a change.) Provides that this change of beneficiary or form of benefit is also allowed if the dissolution of marriage occurs outside Indiana.

**Effective:** July 1, 2008.

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**Saunders, Kersey**

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January 8, 2008, read first time and referred to Committee on Labor and Employment.

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Introduced

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

## HOUSE BILL No. 1065

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 5-10.2-4-7, AS AMENDED BY P.L.149-2007,  
2       SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2008]: Sec. 7. (a) Benefits provided under this section are  
4       subject to IC 5-10.2-2-1.5.

5       (b) A member who retires is entitled to receive monthly retirement  
6       benefits, which are guaranteed for five (5) years or until the member's  
7       death, whichever is later. A member may select in writing any of the  
8       following nonconflicting options for the payment of the member's  
9       retirement benefits instead of the five (5) year guaranteed retirement  
10      benefit payments. The amount of the optional payments shall be  
11      determined under rules of the board and shall be the actuarial  
12      equivalent of the benefit payable under sections 4, 5, and 6 of this  
13      chapter.

14      (1) Joint and Survivor Option.

15          (A) The member receives a decreased retirement benefit  
16          during the member's lifetime, and there is a benefit payable  
17          after the member's death to a designated beneficiary during the

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IN 1065—LS 6253/DI 116+



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lifetime of the beneficiary, which benefit equals, at the option of the member, either the full decreased retirement benefit or two-thirds (2/3) or one-half (1/2) of that benefit.

(B) If the member dies before retirement, the designated beneficiary may receive only the amount credited to the member in the annuity savings account unless the designated beneficiary is entitled to survivor benefits under IC 5-10.2-3.

(C) If the designated beneficiary dies before the member retires, the selection is automatically canceled and the member may make a new beneficiary election and may elect a different form of benefit under this subsection.

(2) Benefit with No Guarantee. The member receives an increased lifetime retirement benefit without the five (5) year guarantee specified in this subsection.

(3) Integration with Social Security. If the member retires before the age of eligibility for Social Security benefits, in order to provide a level benefit during the member's retirement the member receives an increased retirement benefit until the age of Social Security eligibility and decreased retirement benefits after that age.

(4) Cash Refund Annuity. The member receives a lifetime annuity purchasable by the amount credited to the member in the annuity savings account, and the member's designated beneficiary receives a refund payment equal to:

(A) the total amount used in computing the annuity at the retirement date; minus

(B) the total annuity payments paid and due to the member before the member's death.

(c) This subsection does not apply to a member of the Indiana state teachers' retirement fund after June 30, 2007, **or to a member of the public employees' retirement fund after June 30, 2008.** If:

(1) the designated beneficiary dies while the member is receiving benefits; or

(2) the member is receiving benefits, the member marries, either for the first time or following the death of the member's spouse, after the member's first benefit payment is made, and the member's designated beneficiary is not the member's current spouse or the member has not designated a beneficiary;

the member may elect to change the member's designated beneficiary or form of benefit under subsection (b) and to receive an actuarially adjusted and recalculated benefit for the remainder of the member's life or for the remainder of the member's life and the life of the newly

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designated beneficiary. The member may not elect to change to a five (5) year guaranteed form of benefit. If the member's new election is the joint and survivor option, the member shall indicate whether the designated beneficiary's benefit shall equal, at the option of the member, either the member's full recalculated retirement benefit or two-thirds (2/3) or one-half (1/2) of this benefit. The cost of recalculating the benefit shall be borne by the member and shall be included in the actuarial adjustment.

(d) Except as provided in subsection (c) or section 7.2 of this chapter, a member who files for regular or disability retirement may not change:

- (1) the member's retirement option under subsection (b);
- (2) the selection of a lump sum payment under section 2 of this chapter; or
- (3) the beneficiary designated on the member's application for benefits if the member selects the joint and survivor option under subsection (b)(1);

after the first day of the month in which benefit payments are scheduled to begin. For purposes of this subsection, it is immaterial whether a benefit check has been sent, received, or negotiated.

(e) A member may direct that the member's retirement benefits be paid to a revocable trust that permits the member unrestricted access to the amounts held in the revocable trust. The member's direction is not an assignment or transfer of benefits under IC 5-10.3-8-10 or IC 5-10.4-5-14.

SECTION 2. IC 5-10.2-4-7.2, AS ADDED BY P.L.149-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7.2. (a) This section applies to **the following**:

(1) A member of the Indiana state teachers' retirement fund after June 30, 2007.

**(2) A member of the public employees' retirement fund after June 30, 2008.**

(b) If a member is receiving a benefit from the fund and:

- (1) the member's designated beneficiary dies;
- (2) the member and the member's designated beneficiary are parties in an action for dissolution of marriage ~~under IC 31-15-2~~ in which a final order is issued after the member's first benefit payment is made; or
- (3) the member marries after the member's first benefit payment is made, and:

(A) the member's designated beneficiary is not the member's current spouse; or

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1 (B) the member has not designated a beneficiary;  
 2 the member may make the election described in subsection (c).  
 3 (c) A member described in subsection (b) may elect to:  
 4 (1) change the member's designated beneficiary or form of benefit  
 5 under section 7(b) of this chapter; and  
 6 (2) receive an actuarially adjusted and recalculated benefit for the  
 7 remainder of:  
 8 (A) the member's life; or  
 9 (B) the member's life and the life of the newly designated  
 10 beneficiary.  
 11 (d) A member making the election under subsection (c) may not  
 12 elect to change to a five (5) year guaranteed form of benefit under  
 13 section 7(b) of this chapter.  
 14 (e) If a member elects a benefit under subsection (c)(2)(B), the  
 15 member must indicate whether the newly designated beneficiary's  
 16 benefit will equal:  
 17 (1) the member's full recalculated benefit;  
 18 (2) two-thirds (2/3) of the member's recalculated benefit; or  
 19 (3) one-half (1/2) of the member's recalculated benefit.  
 20 (f) The member bears the cost of recalculating a benefit under  
 21 subsection (c)(2), and the cost shall be included in the actuarial  
 22 adjustment.  
 23 (g) Benefits may be recalculated under this section only to the  
 24 extent permitted by the Internal Revenue Code and applicable  
 25 regulations.  
 26 (h) Before implementing this section, the board of the Indiana state  
 27 teachers' retirement fund may obtain any approvals that the board  
 28 considers necessary or appropriate from the Internal Revenue Service.

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